

The Soledad Canyon Mine Act

H.R. 5887

Information Kit



HOWARD P. "BUCK" McKEON

25TH DISTRICT, CALIFORNIA

COMMITTEE ON EDUCATION
AND LABOR

SENIOR REPUBLICAN MEMBER

COMMITTEE ON ARMED SERVICES
SUBCOMMITTEE ON AIR AND LAND FORCES
SUBCOMMITTEE ON MILITARY READINESS

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April 24, 2008

Summary of H.R. 5887-The Soledad Canyon Mine Act of 2008

The legislation would cancel two ten-year Soledad Canyon mining contracts that CEMEX has with the U.S. Bureau of Land Management (BLM), thereby ending the possibility of mining at the Soledad Canyon site in Santa Clarita, CA. The legislation also would fairly compensate CEMEX for having its contracts with BLM cancelled by providing the company with BLM-held land near Victorville, California that is comparable in value to the company's investment in the cancelled contracts. The company will sell the land to help with the Victorville area's future economic development plans.



The Soledad Canyon Mine Act

H.R. 5887

Fact Sheet

Historical Overview

In 1990, CEMEX USA ("CEMEX") received contractual rights to mine a site in Soledad Canyon for sand and gravel from the U.S. Bureau of Land Management ("BLM"). Transit Mixed Concrete Corporation ("TMC") had originally received the rights from the BLM and the mining rights eventually passed to CEMEX. As the successor in interest, CEMEX currently holds the BLM contracts. The contracts permitted CEMEX to extract 56 million tons of sand and gravel from the site over a maximum of 20 years. The City of Santa Clarita objected to CEMEX's plan to increase the mining of Soledad Canyon beyond 300,000 tons per year. The two have been at odds for more than eight years over the proposed mining project.

In February 2007, the city and CEMEX announced a truce and agreed to work together to find a mutually acceptable solution that would result in a "win-win" for both parties. Santa Clarita City Manager Ken Pulskamp and CEMEX USA President Gilberto Perez signed a four-point agreement formalizing the terms of that truce that included the possibility that they would seek federal legislation.

As a result of that truce, Rep. Howard P. "Buck" McKeon, R-CA 25, introduced H.R. 5887, the Soledad Canyon Mine Act, on April 24, 2008. The legislation would end the dispute and produce the "win-win" solution both parties desire.

The legislation would end the possibility of future mining in Soledad Canyon near Santa Clarita. It also would ensure CEMEX is fairly compensated for having its Soledad Canyon mining contracts cancelled by the federal government. Both CEMEX and the City of Santa Clarita are supporting this important piece of legislation and are working to ensure its passage.

Legislation Overview

- The Soledad Canyon Mine Act would cancel CEMEX's existing Soledad Canyon mining contracts with the BLM.
- The bill would end the possibility of mining at the Soledad Canyon site.
- The measure would fairly compensate CEMEX for the company's investment in the Soledad Canyon contracts by providing the company with designated federal land of equal value in the Victorville area. CEMEX has no plans to mine the property near Victorville, but has an agreement with the City of Victorville to sell these lands in accordance with local land use and economic development goals.

How the Legislation Would Work

- The Soledad Canyon Mine Act would require the BLM to cancel CEMEX's two Soledad Canyon contracts.
- The legislation does not set the value of the contracts. Instead, it would establish a process to determine the value of the company's investment in the cancelled contracts. This process would be overseen by the United States Secretary of the Interior.
- After this valuation process is completed, the Secretary of the Interior would provide CEMEX with designated BLM land in the Victorville area that would be equal to the value the Secretary has determined CEMEX invested in its proposed Soledad Canyon mining operation.
- If the Secretary determines the value of the cancelled contracts exceeds the value of the designated BLM land near Victorville, the Secretary could provide additional compensation to CEMEX.
- After receiving the land near Victorville, CEMEX has agreed to sell the land to the City of Victorville to help provide for Victorville's future economic development.
- If CEMEX and the Secretary of the Interior fail to reach agreement on the valuation of the investment in the cancelled contracts or the Victorville land, the bill would require the Secretary turn the issue over to the U.S. Court of Federal Claims for resolution.

Conclusion

This legislation represents a cooperative effort to produce a "win-win" solution for all parties involved. The City of Santa Clarita and CEMEX have worked closely with Rep. McKeon to develop legislation that would bring an acceptable conclusion to the dispute over mining in Soledad Canyon. The Soledad Canyon Mine Act is the product of this close cooperation and the desire for a mutually agreeable solution.

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The Soledad Canyon Mine Act

H.R. 5887

Frequently Asked Questions

- Q. What is the Soledad Canyon Mine Act?**
- A.** The Soledad Canyon Mine Act is legislation introduced by Rep. Howard P. "Buck" McKeon, R-CA 25, which would end a dispute of more than eight years between the City of Santa Clarita and CEMEX USA ("CEMEX") over a mine the company proposed to operate in Soledad Canyon. Santa Clarita and CEMEX declared a truce in February 2007 and announced they would seek a legislative solution that would be a "win-win" for all parties. This legislation is the result of that agreement.
- Q: What is the Transit Mix Concrete Corporation identified in the text of H.R. 5887?**
- A:** Transit Mixed Concrete Corporation ("TMC") is the company that originally received the mining contracts from the U.S. Bureau of Land Management ("BLM"). As the successor in interest, CEMEX currently holds the contracts.
- Q. What would the legislation do?**
- A.** The legislation would cancel CEMEX's right to operate a quarry near Santa Clarita, while ensuring CEMEX is fairly compensated for its investment in its proposed mining operation. In 1990, CEMEX leased the rights to extract 56 million tons of sand and gravel from the Soledad Canyon site over a maximum of 20 years. CEMEX would have its two Soledad Canyon mining contracts cancelled, and the legislation would assure Santa Clarita and neighboring landowners that the potential for future mining in Soledad Canyon would be prohibited. In exchange for returning its Soledad Canyon contracts, CEMEX would receive designated federal lands of equal value in the Victorville area from the BLM.
- Q. What will the BLM do with the existing Soledad Canyon minerals now that the mining contracts have been cancelled?**
- A.** The legislation will end the possibility of mining at Soledad Canyon site.
- Q. What does CEMEX intend to do with the land in the Victorville area?**
- A.** H.R. 5887 will not trade one mine for another. CEMEX has no plans to mine the property near Victorville, but has an agreement with the City of Victorville to sell these lands in accordance with local land use and economic development goals.

Q. How would CEMEX's shareholders be protected?

- A. The measure would allow CEMEX to be fairly compensated for having its Soledad Canyon contracts cancelled. The legislation would provide the company with designated federal lands near the City of Victorville that would be equal in value to CEMEX's investment in the cancelled Soledad Canyon contracts. CEMEX does not plan to mine the Victorville area property, but plans to sell it so that the land can become part of the Victorville area's future economic development plan.

Q. How would the Soledad Canyon mineral contracts be valued?

- A. The legislation doesn't set the value of the contracts. Instead, it establishes a process to determine the value of the investment in the contracts that would be overseen by the United States Secretary of the Interior.

Q. How would the transaction process work?

- A. Within six months after the valuation process regarding the cancelled contracts is completed, the Secretary of the Interior would provide CEMEX with designated BLM land near the City of Victorville that would be equal in value to the cancelled Soledad Canyon contracts.

Q. How does City of Victorville view this transaction?

- A. The City of Victorville is an active supporter of the Soledad Canyon Mine Act. Victorville representatives have met with Rep. McKeon, CEMEX officials and City of Santa Clarita representatives and have carefully reviewed the proposed legislation. Victorville views this effort as a very positive step forward for its plans for economic development in the area.

Q. How do CEMEX and the City of Santa Clarita view this legislation?

- A. CEMEX and the City of Santa Clarita welcome this important legislation as a "win-win" resolution of a dispute of more than eight years. Both would benefit from the legislation. Santa Clarita would no longer face the prospect of mining operations just one mile from its residents, and CEMEX would recover the appropriate value of its investment in the Soledad Canyon contracts.

Q. Who is supporting the legislation?

- A. So far, the City of Santa Clarita, CEMEX and the City of Victorville support H.R. 5887.

Q. Now the legislation has been introduced. What are the next steps?

- A. The bill has been referred to the House Natural Resources Subcommittee on Energy and Mineral Resources.

BUCK McKEON

SOUTHERN DISTRICT OF CALIFORNIA



PRESS RELEASE

FOR IMMEDIATE RELEASE CONTACT: Lindsey Mask

April 25, 2008 (202) 870-2112

Congressman McKeon Introduces "Win-Win" Legislative Proposal to Address Santa Clarita, CEMEX Mining Agreement

WASHINGTON, D.C. – Rep. Howard P. "Buck" McKeon (R-Santa Clarita) today announced that he has introduced the *Soledad Canyon Mine Act* (H.R. 5887), legislation that incorporates an agreement reached by the City of Santa Clarita, Victorville, and CEMEX to settle a dispute regarding a large-scale mine proposed to operate in Soledad Canyon.

"Years ago, I made a promise to carry legislation to resolve the mining issue between the City of Santa Clarita and CEMEX if an agreement could be reached," stated McKeon. "Today, I am pleased to report that with the help of our friends from the City of Victorville, we have reached that agreement."

McKeon's legislative proposal, introduced yesterday, would cancel two ten-year Soledad Canyon mining contracts that CEMEX has with the U.S. Bureau of Land Management (BLM), thereby ending the possibility of mining at the Soledad Canyon site.

"Santa Clarita has been rated one of the best places to live in the country and quality of life has always been paramount here," said Santa Clarita Mayor Bob Kellar. "Enacting this legislation would be a major accomplishment for residents of Santa Clarita and Los Angeles County, safeguarding our cherished quality of life and preserving open space for generations to come."

The legislation would also fully and fairly compensate CEMEX for having its contracts with BLM cancelled by providing the company with land near Victorville, California that is comparable in value to the company's investment in the cancelled contracts.

"CEMEX continues to recognize the increasing need for aggregate products as California grows and makes significant additional investments in its infrastructure," said Steve Wise, Regional President - Pacific Region, CEMEX. "Our company is committed to fulfilling the state's need for building materials. In the context of this longstanding dispute, we appreciate that Congressman McKeon has crafted an equitable solution that recognizes our financial interests and also balances the community's needs in Santa Clarita"

The agreement would also augment the City of Victorville's strong economic development plan for their community.

"Congressman Buck McKeon has brokered a win-win agreement for all. The City of Victorville is pleased to participate in this agreement that protects community interests and provides for future economic development," stated Victorville Councilman Mike Rothschild.

In 1990, CEMEX leased the rights to mine Soledad Canyon for sand and gravel from the U.S. Bureau of Land Management. The City of Santa Clarita and CEMEX announced a truce in February 2007 and agreed to seek a legislative solution that would result in an acceptable outcome for all parties. The *Soledad Canyon Mine Act* is the product of this close cooperation

and the desire for a mutually agreeable solution.

McKeon went on to say, *"with all the major players on board, we have a strong team to take this legislative proposal back to Washington and begin the uphill process of working it through the Congress."*

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City of
SANTA CLARITA

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www.santa-clarita.com

April 23, 2008

The Honorable Howard P. "Buck" McKeon
Member of Congress
26650 The Old Road, Suite 203
Santa Clarita, CA 91381


Dear Representative McKeon:

We are pleased to hear that final agreement has now been reached between the City of Santa Clarita, City of Victorville, CEMEX and you regarding the provisions to be included in legislation which you have agreed to author relative to the proposed Soledad Canyon Mine.

As the committee that represents the entire City Council regarding this issue, we have reviewed the final draft and are pleased to inform you that we are in support of the provisions of the measure. We understand that the bill you will introduce shortly cancels the two contracts between CEMEX and the United States Bureau of Land Management, withdraws from mineral entry the areas that are the subject under the contracts, outlines the methodology that the Secretary of the Interior shall use for valuing the contracts, outlines a dispute resolution process should the Secretary and CEMEX disagree on the Secretary's determinations, and provides for the receipt of surface or mineral estate of equal value to the Soledad contracts in and around the City of Victorville or other considerations, if necessary. We understand that CEMEX and the City of Victorville have been working together to secure an agreement as to the conveyance of property between the two parties, which will complete the overall transaction envisioned under the proposed legislation.

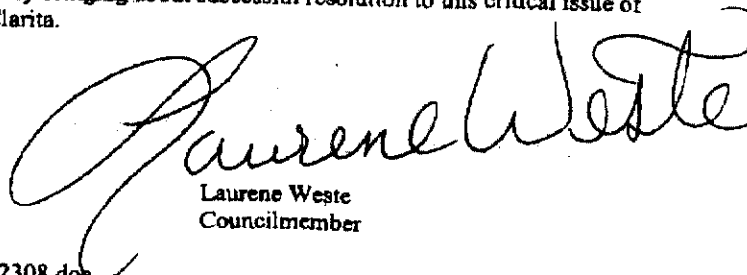
The City of Santa Clarita will continue to work with you and all of the parties to secure enactment of this legislation. Once the measure is formally introduced in Congress, we will bring the measure forward to the full City Council, with the intention of securing strong and public support for the measure by the entire City Council.

We are pleased to have been an integral part of the process that has brought us to this point. We greatly appreciate your commitment to introducing the bill, working with the larger team to secure passage of the measure and ultimately bringing about successful resolution to this critical issue of concern to the residents of Santa Clarita.

Sincerely,



Bob Kellar
Mayor



Laurene Weste
Councilmember

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Gilberto Perez

April 21, 2008

The Honorable Howard McKeon
2351 Rayburn HOB
Washington, DC 20515

Dear Congressman McKeon,

CEMEX welcomes and supports the introduction of the Soledad Canyon Mines Contract Adjustment Act. The introduction of this legislation represents the successful culmination of a collaborative effort over these last 16 months between the City of Santa Clara and CEMEX to end the eight year dispute over a proposed aggregates quarry in Soledad Canyon. We thank the City of Santa Clara and its leadership for their sincere effort. We also appreciate the efforts of the City of Victorville and its leadership for being an active participant in the search for creative solutions. While we believe the legislation fairly attempts to compensate CEMEX for its contracts with the BLM that would be cancelled under this Act, we do look forward to working with you, your staff, and all of the parties in making the legislation even stronger as we move thru the Committee process. You have my sincere thanks for helping us to reach this interim milestone. My team and I look forward to working with you and your staff to get this important legislation passed and signed into law.

Sincerely,

A handwritten signature in black ink, appearing to be "Gilberto Perez", written over a horizontal line.

Gilberto Perez

United States Operations

1200 Smith Street, Suite 2400, Houston, Texas 77002, USA. Phone: (713) 653-8096. Fax: (713) 653-6826

KEY CITY OF THE HIGH DESERT

TERRY L. CALDWELL
MAYOR

JOANN ALMOND
MAYOR PRO TEM

RUDY CABRIALES
COUNCILMEMBER



HOME OF THE SAN BERNARDINO COUNTY FAIR

BOB HUNTER
COUNCILMEMBER

MIKE ROTHSCHILD
COUNCILMEMBER

JON B. ROBERTS
CITY MANAGER

April 24, 2008

Honorable Congressman Howard McKeon
26650 The Old Road, Suite 203
Santa Clarita, CA 92381

Re: H.R. 5887 - The Soledad Canyon Mine Act of 2008 - SUPPORT

Honorable Congressman McKeon:

I am pleased to support H.R. 5887 - The Soledad Canyon Mine Act of 2008. Creative solutions are one of the hallmarks of good government and good business. Upon approval, this Act will resolve a long-standing dispute through a series of agreements that will benefit both Santa Clarita and Victorville and fairly compensate CEMEX.

For Victorville, this Act makes possible exciting opportunities for master planned development previously unseen in this region. We look forward to working diligently under your leadership to secure enactment of the legislation. Now that the bill has been introduced, I will ask that a formal resolution of support for the legislation be considered by the City Council at the next available meeting. I am confident this Act will receive the support of the entire City Council because of the opportunity it presents to jump start our master planning efforts.

Sincerely,

Mike Rothschild

Mike Rothschild
Councilmember

cc Senator George Runner
Assemblywoman Sharon Runner
Mayor Bob Kellar, Santa Clarita
City Council Members
Jon Roberts, City Manager
Department Heads
Gilberto Perez, CEMEX

CITY OF VICTORVILLE

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Daily News

McKeon poses mine solution

April 26, 2008

Officials say land swap would stop gravel extraction near Santa Clarita, satisfy Cemex

By Jerry Berrios, Staff Writer

SANTA CLARITA - Hoping to finally stop a controversial sand-and-gravel mine project, U.S. Rep. Howard "Buck" McKeon, R-Santa Clarita, has crafted a complex land swap deal aimed at buying the mining company out of its contract.

McKeon's plan would cancel the federal contracts Cemex has to mine 56 million tons of sand and gravel from land adjacent to Santa Clarita.

In exchange for canceling those contracts, the U.S. Bureau of Land Management would give Cemex about 5,000 acres of land near the city of Victorville.

Cemex would then sell the land to the city of Victorville, which has economic development plans for the property.

Officials from Santa Clarita, Victorville and the mining company lauded the Soledad Canyon Mine Act at a press conference alongside McKeon.

"No longer would we face the potential of mining in Soledad Canyon," Santa Clarita Mayor Bob Kellar said. "Soledad Canyon would be protected as open space for generations to come."

Santa Clarita officials oppose the potential mine because of concerns about air pollution and increased traffic. After years of litigation, city officials and Cemex declared a one-year truce in February 2007, which was later extended.

McKeon said the land in Victorville would not be used for mining.

"We are not trading one mine for another," he said.

The BLM contracts were originally awarded to Transit Mixed Concrete in 1990 bidding. After years of environmental reviews, the project got approval from the federal government in 2000 and from Los Angeles County government in 2004.

Mexico-based Cemex, which now holds the contracts, would have paid the federal government a minimum of \$28 million over 20 years to mine the sand and gravel from a site between Canyon Country and Agua Dulce.

Cemex has already paid BLM about \$4 million in bonds and bid deposits, said BLM spokeswoman Jan Bedrosian.

On Friday, officials said the land swap's costs will be determined by future appraisals of the mining contracts and the BLM land in Victorville.

"We are a willing partner in something that seems to be a no-brainer to me," said Victorville City Councilman Mike Rothschild. "It's a three-way trade."

Cemex cannot walk away from its contracts with the federal government, said Cemex regional president Steve Wise, but this legislation is a viable solution.

"We are eager to bring this dispute to an end and are confident that this important milestone brings us closer to that day," Wise said.

McKeon said he hopes the legislation will become law by the end of the year, which could be difficult with Congress adjourning in September.

"If we don't get it done this year, it would be the first bill I would introduce next year on the first day of Congress," he said.



An end in sight for Cemex in Soledad Canyon?

With mining company's support, McKeon introduces bill that would kill SCV gravel mine.

April 26, 2008

By Katherine Geyer
Signal Staff Writer
kgeyer@the-signal.com
661-259-1234 x518

An agreement announced Friday by U.S. Rep. Howard "Buck" McKeon could halt a nearly decade-long battle between the city of Santa Clarita and global mining company Cemex, Inc. over a planned large-scale mine in Soledad Canyon.

McKeon, R-Santa Clarita, on Thursday introduced what he called "win-win" legislation that would cancel Cemex's two, ten-year mining contracts with the federal Bureau of Land Management, effectively ending any chance that the company could mine at the Soledad Canyon site.

Through H.R. 5887, Cemex would be given thousands of acres land in Victorville equivalent to the value of the contracts. Cemex would then sell the land to the city of Victorville and other private buyers for purposes other than mining.

"It has taken a long time to get to this point. This is a major accomplishment," McKeon said at a news conference outside his Santa Clarita Valley office. "Some people enjoy fighting and other people enjoy getting things done. This is a great example of getting things done."

Through the Bureau of Land Management, Cemex is authorized to mine up to 5 million tons of sand and gravel annually on 400 acres of land in Soledad Canyon. For nearly a decade, the city of Santa Clarita has opposed the Soledad Canyon mine as a scourge that would add pollution and unwanted traffic to Highway 14. The city has spent more than \$8 million fighting the plans and in February 2007, the city and Cemex announced a truce to allow all the parties work out an agreement through legislation.

"It's truly a great day for the city of Santa Clarita," said Mayor Bob Kellar. "Santa Clarita has been rated one of the best places to live because our quality of life has been paramount."

If the legislation is successful, Kellar said, "We would no longer have to worry about the threat this would bring to the city's border."

The Soledad Canyon Mine Act of 2008 is McKeon's fourth attempt to reach an agreement through legislation. This is the first bill Cemex has supported.

"We're 100 percent behind (the agreement) and will be working hard to support it," said Steve Wise, Cemex regional president of Pacific operations, representing Cemex President Gilberto Perez.

The legislation would create the methodology for the U.S. Department of the Interior to determine the value of the contracts, said Mike Murphy, Santa Clarita's intergovernmental relations officer. The value of the contracts will determine how much land would be handed over to Cemex.

The parties have identified about 5,000 acres of federal land for Cemex in Victorville, which lands within McKeon's 25th congressional district. If the value of the contracts is determined to be more than the value of the 5,000 acres, Cemex could acquire additional land in another area of Victorville with 3,000 available acres.

The bill contains a provision that the Victorville land "will not and cannot be used for any future mining," said McKeon. "We're not trading one mine for another."

Cemex would likely sell the majority of the land to the city of Victorville. The two parties have an agreement separate from the legislation.

Murphy said Cemex is not looking to make a profit on the land swap. "They're not looking to get more," he said. "They're looking to get equal value to the contracts here."

Victorville officials see the land swap as a boon to the city's economic development plan since the BLM land had been earmarked for mining by a different mining company.

"This is a win-win for everybody," said Victorville Councilman Mike Rothschild. He said the deal would be beneficial for their local economy and the environment.

McKeon said the BLM has not taken a position of support on the agreement and McKeon is hoping the department won't eventually oppose the bill.

The unsuccessful bills McKeon previously introduced would have provided Cemex with land outside Santa Clarita and would have scaled down mining potential to historic levels of 300,000 tons per year.

"The prior legislation I introduced I knew didn't have a chance," McKeon told The Signal. "But we had to start there with just eliminating the mine. What we've worked out here is an agreement with all the parties concerned that can actually work and I think has the potential of actually getting done."

Both Kellar and Council-woman Laurene Weste, who both sit on the council committee devoted to resolving the issue, plan to travel to Washington, D.C., to lobby for the bill.

McKeon said that if the bill dies in Congress before the end of the year, he will re-introduce the legislation on the first day of the next session.

"We know there are many potential obstacles. There's lots of steps and we'll be working to be as expeditiously as possible," he said. "With all the major players on board, we have a strong team to take this legislation proposal back to Washington and begin the uphill process of working it through Congress."



Congressman McKeon introduces legislation to address mining agreement

April 25, 2008

WASHINGTON D.C. — A local congressman Friday announced legislation that incorporates an agreement reached by the City of Santa Clarita, Victorville and CEMEX to settle a dispute regarding a large-scale mine proposed to operate in Soledad Canyon.

McKeon's legislative proposal would cancel two ten-year Soledad Canyon mining contracts that CEMEX has with the U.S. Bureau of Land Management, thereby ending the possibility of mining at the Soledad Canyon site.

The legislation would also fully and fairly compensate CEMEX for having its contracts with BLM canceled by providing the company with land near Victorville that is comparable in value to the company's investment in the canceled contracts, officials said.

The agreement would also augment the City of Victorville's strong economic development plan for their community.

110TH CONGRESS
2D SESSION

H. R. 5887

To provide to the Secretary of Interior a mechanism to cancel contracts for the sale of materials CA-20139 and CA-22901, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2008

Mr. McKEON introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide to the Secretary of Interior a mechanism to cancel contracts for the sale of materials CA-20139 and CA-22901, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Soledad Canyon Mine
5 Act".

6 **SEC. 2. FINDING AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

1 (1) Transit Mix Concrete Corporation holds two
2 valid Federal contracts, numbered CA-20139 and
3 CA-22901, issued under the Materials Act of 1947,
4 for the extraction of approximately 56,000,000 tons
5 of sand and gravel from the Federal mineral estate
6 in lands located in Soledad Canyon adjacent to the
7 city of Santa Clarita, California.

8 (2) It is in the best interest of the citizens of
9 California and the Federal Government to cancel the
10 Contracts and prohibit future mining in the Soledad
11 Canyon area of California.

12 (3) TMC should receive as just compensation
13 for such cancellation the fair market value of the
14 Contracts and all costs, fees, and covered liabilities
15 incurred by TMC in good faith in its efforts to de-
16 velop the Contracts.

17 (4) A site-specific solution that is fair to TMC
18 and that seeks to protect the environment and mini-
19 mize impacts on local transportation systems is in
20 the best interest of the Nation.

21 (5) Considerable sums of money have been ex-
22 pended by TMC and the city of Santa Clarita on
23 legal and other services in trying to ensure their in-
24 terests are protected with respect to Contracts CA-
25 20139 and CA-22901.

1 (b) PURPOSES.—The purposes of this Act are the fol-
2 lowing:

3 (1) To provide to the Bureau of Land Manage-
4 ment the authority to cancel contracts CA-20139
5 and CA-22901 and prohibit future mining in the
6 Soledad Canyon.

7 (2) To provide a means for TMC to recover as
8 just compensation for the cancellation of the Con-
9 tracts the fair market value of, and TMC's expendi-
10 tures and covered liabilities pursuing the develop-
11 ment of, the Contracts.

12 (3) To provide the Bureau of Land Manage-
13 ment tools to verify expenses incurred by TMC and
14 provide relief.

15 (4) To provide timelines for the verification of
16 costs incurred by TMC and the determination of just
17 compensation, and to provide a dispute resolution
18 process.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) **CONTRACTS.**—The term “Contracts” means
22 Bureau of Land Management mineral contracts
23 numbered CA-20139 and CA-22901.

24 (2) **COVERED LIABILITIES.**—The term “covered
25 liabilities” includes any court-ordered or court-ap-

1 proved payment, settlement, or other liability on the
2 part of TMC for damages, costs, compensation, or
3 reimbursement to any third party for agreements en-
4 tered into by TMC in good faith prior to January
5 1, 2008, in order to exercise rights under the Con-
6 tracts.

7 (3) MATERIALS ACT OF 1947.—The term “Ma-
8 terials Act of 1947” means the Act of July 31,
9 1947, (chapter 406; 61 Stat. 681; 30 U.S.C. 601–
10 604).

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 (5) TMC.—The term “TMC” means the Tran-
14 sit Mixed Concrete Corporation and its successors in
15 interest, including CEMEX USA.

16 **SEC. 4. CANCELLATION OF THE CONTRACTS.**

17 (a) CONTRACT CANCELLATIONS.—The Secretary
18 shall cancel Bureau of Land Management mineral con-
19 tracts CA-20139 and CA-22901 and withdraw those
20 areas that were subject to the Contracts from further min-
21 eral entry under all mineral leasing and sales authorities
22 available to the Secretary, effective on the date of the en-
23 actment of this Act.

24 (b) COMPENSATION.—

1 (1) IN GENERAL.—As compensation for the
2 cancellation of the Contracts, TMC shall receive fair
3 market value of the Contracts and TMC's expendi-
4 tures and covered liabilities in trying to bring the
5 Contracts into commercial production. As such com-
6 pensation, the Secretary shall provide to TMC sur-
7 face and mineral interests and additional value in
8 accordance with subsection (d) having a total value
9 equal to the amount described in paragraph (3). All
10 such expenditures must have been incurred by TMC
11 in good faith in connection with its efforts to bring
12 the Contracts into commercial production: *Provided,*
13 *however,* that compensation for covered liabilities
14 may be paid to TMC under this section for up to 15
15 years following the effective date of this Act.

16 (2) INCREASE IN ADJUSTED BASIS OF CON-
17 TRACT UPON CANCELLATION.—For purposes of the
18 Internal Revenue Code of 1986, the adjusted basis
19 of any contract to which section 4(a) applies shall be
20 increased (immediately before the cancellation of
21 such contract under such section) by the excess (if
22 any) of—

23 (A) the fair market value of such contract
24 (determined immediately before such cancella-
25 tion), over

1 (B) the adjusted basis of such contract (as
2 determined immediately before the application
3 of this section).

4 (3) VALUE DESCRIBED.—The compensation
5 provided for in paragraph (1) is equal to the sum of
6 the following:

7 (A) All amounts paid to the United States
8 by TMC with respect to the Contracts as bonus
9 bids or other prepayments.

10 (B) Interest on amounts referred to in
11 subparagraph (A), from the date of payment of
12 such amounts to the United States, at a rate
13 determined by the Secretary.

14 (C) Amounts expended by TMC in secur-
15 ing the contracts and trying to bring them into
16 production, including—

17 (i) all actual costs, including fees, as-
18 sociated with the engineering and environ-
19 mental studies, and permitting pro-
20 ceedings, that were incurred in good faith
21 in TMC's efforts to exercise the rights
22 granted under the Contract terms; and

23 (ii) all actual legal costs, including
24 fees and covered liabilities, incurred in
25 good faith in TMC's efforts to exercise the

1 rights granted in the Contracts, including
2 all fees and costs associated with securing
3 permits and entitlements, litigation to com-
4 pel, secure, or defend permits or entitle-
5 ments, and litigation in connection with
6 disputes relating to mineral and surface es-
7 tate rights to the property that is the sub-
8 ject of the Contracts.

9 (D) The fair market value of the Con-
10 tracts.

11 (4) DETERMINATION OF FAIR MARKET
12 VALUE.—The Secretary shall, within six months
13 after the date of enactment of this Act, determine by
14 mineral appraisal the fair market value of the con-
15 tracts at the time of such determination for pur-
16 poses of paragraph (3)(D), determine by mineral ap-
17 praisal or other generally accepted applicable ap-
18 praisal techniques the fair market value of the sur-
19 face and mineral estate identified in the map re-
20 ferred to in subsection (d), and notify TMC of those
21 determinations. In determining the fair market value
22 of the Contracts, the Secretary shall assume that—

23 (A) TMC has obtained all permits and en-
24 titlements necessary to mine, produce, process,
25 and sell sand and gravel from the Contracts;

1 (B) mining operations under the Contracts
2 have commenced at the time of the determina-
3 tion, with maximum annual production volumes
4 that—

5 (i) are based on the projected supply
6 and demand outlook at the time of deter-
7 mination; and

8 (ii) reflect depletion of the reserves of
9 the Contracts within the effective periods
10 of the Contract;

11 (C) the fair market value of the Contracts
12 includes the present value of expected future
13 net cash flows to be derived from the mining,
14 producing, processing, and sale of the sand and
15 gravel contained in the Contracts over the min-
16 imum time necessary to mine, produce, process,
17 and sell such sand and gravel, taking into con-
18 sideration—

19 (i) the material deposit contained in
20 the contract sites and its quality, volume,
21 minability, and reclamation requirements;

22 (ii) the proximity of the contract sites
23 to markets;

24 (iii) the type of market that could be
25 served from the contract sites, including

1 future supply, demand, and probable price
2 increases based upon construction material
3 data developed by the State of California;

4 (iv) the cost of mining, producing,
5 processing, and selling the material re-
6 served in the contract sites;

7 (v) the types and costs of transpor-
8 tation for such production from the con-
9 tract sites to markets;

10 (vi) royalties, taxes, and fees to mine
11 and sell the production from the contract
12 sites;

13 (vii) similar market sales of materials
14 the area or region of the contract sites;
15 and

16 (viii) the net present values of ex-
17 pected future cash flows from proposed
18 mining operations of the Contract sites
19 taking into consideration, at a minimum,
20 the matters referred to in clauses (i)
21 through (viii).

22 (e) SUBMISSION OF EXPENSES INCURRED.—

23 (1) IN GENERAL.—To assist in the verification
24 of the amounts expended referred to in subsection
25 (b)(3)(C), TMC shall submit to the Secretary within

1 60 days after the date of enactment of this Act an
2 itemized list of such amounts, with enough detail
3 and supporting documentation so the Secretary can
4 determine that the expenses are associated with the
5 Contracts.

6 (2) ARBITRATION.—The Secretary shall issue
7 the determination of the amounts expended referred
8 to in subsection (b)(3)(C) within 60 days after re-
9 ceipt of the itemized list required under paragraph
10 (1). If the Secretary disapproves such list, the Sec-
11 retary shall, upon request of TMC, determine the
12 economic value invested for purposes of subsection
13 (b)(3) through arbitration in accordance with sub-
14 chapter IV of chapter 5 of title 5, United States
15 Code.

16 (d) RETURN OF VALUE OPPORTUNITIES FOR
17 TMC.—

18 (1) IN GENERAL.—Within six months after the
19 completion of the requirements of subsections (b)
20 and (c), the Secretary shall provide to TMC the fol-
21 lowing:

22 (A) Surface and mineral estate interests
23 and additional value under subsection (b)(1)
24 using the surface and mineral estate as de-
25 scribed and delineated as Area A on the map

1 entitled "Cemex USA and City of Victorville,
2 California Land Disposal and Acquisition
3 Agreement" and on file with the Secretary, con-
4 sisting of approximately 5,000 acres.

5 (B) If the fair market value of the surface
6 and mineral estate used under subparagraph
7 (A) is less than the sum described in subsection
8 (b)(3), additional mineral or surface estate
9 under subsection (b)(1) using the surface and
10 mineral estate as described and delineated as
11 Area B on the map entitled "Cemex USA and
12 City of Victorville, California Land Disposal
13 and Acquisition Agreement" and on file with
14 the Secretary, consisting of approximately
15 3,000 acres as is necessary so that the sum of
16 the values provided under subparagraph (A)
17 and this subparagraph does not exceed the sum
18 described in subsection (b)(3).

19 (C) If the sum of the fair market values of
20 the surface and mineral estates and additional
21 value provided under subparagraphs (A) and
22 (B) is less than the sum described in subsection
23 (b)(3), additional value as is necessary so that
24 the sum of the values provided under subpara-
25 graphs (A) and (B) and this subparagraph does

1 not exceed the sum described in subsection
2 (b)(3), in the form of one or more of the fol-
3 lowing that are mutually agreed to by the Sec-
4 retary and TMC:

5 (i) Credits that may be applied
6 against future royalties, bonus bids, or
7 rental fees for Federal lands administered
8 by the Secretary and located within the
9 State of California, including leases for all
10 submerged lands of the outer Continental
11 Shelf.

12 (ii) Interest in the mineral estate in
13 Federal lands in the State of California
14 that are available for sale under the Min-
15 eral Leasing Act (30 U.S.C. 181 et seq.)
16 or other law administered by the Secretary.

17 (iii) Interests in the surface estate in
18 Federal lands in the State of California
19 that are under the administrative jurisdic-
20 tion of the Secretary and that are available
21 for disposal.

22 (e) TREATMENT OF CREDITS.—

23 (1) TERM.—Credits provided under subsection

24 (d) shall expire at the end of the 10-year period be-

1 ginning on the date the credits are issued by the
2 Secretary.

3 (2) ASSIGNMENT.—TMC may assign credits
4 provided to TMC under subsection (d) to any person
5 who satisfies the same requirements to hold the Con-
6 tracts as those that applied to TMC under the Mate-
7 rials Act of 1947.

8 (f) REFERRAL TO COURT OF CLAIMS.—

9 (1) REFERRAL.—If within 12 months after the
10 date of enactment of this Act, the Secretary and
11 TMC do not reach agreement under subsections (b),
12 (c), and (d) regarding the financial and mineral pro-
13 duction opportunities to be provided by the Sec-
14 retary to TMC under subsection (b)(1), or, if within
15 3 months after TMC receives notice in accordance
16 with subsection (b)(4) of the fair market value de-
17 termined by the Secretary of the surface and min-
18 eral estate identified in the maps referred to in sub-
19 section (d) TMC or the city of Victorville, California,
20 notifies the Secretary that it disagrees with the Sec-
21 retary's determination, the Secretary shall refer the
22 issues upon which TMC, or the city of Victorville,
23 California, and the Secretary are not in agreement
24 with respect to such an agreement or fair market

1 value to the United States Court of Federal Claims
2 for resolution

3 (2) RESOLUTION BY COURT.—In any referral
4 under this subsection, the court shall—

5 (A) determine de novo the values described
6 in subsection (b) and (d), including the fair
7 market values of the surface and mineral es-
8 tates as described and delineated on the maps
9 referred to in subsection (d)(1); and

10 (B) determine and order the Secretary to
11 provide financial and mineral production oppor-
12 tunities consistent with subparagraph (A), for
13 purposes of subsections (b)(1) and (d).

14 **SEC. 5. LIMITATIONS ON FUTURE LEASING FOR LAND OR**
15 **MINERAL ESTATE IN THE VICTOR VALLEY**
16 **AREA OF CALIFORNIA.**

17 Notwithstanding anything in this Act to the contrary,
18 prior to any lease, transfer, or other disposition of land
19 or any mineral or surface estate for any area that is lo-
20 cated in the city of Victorville, California, the city of
21 Victorville's sphere of influence, or the city of Victorville's
22 proposed sphere of influence, all as delineated on the map
23 entitled "Cemex USA and City of Victorville, California
24 Land Disposal and Acquisition Agreement" and on file
25 with the Secretary, the Secretary shall—

- 1 (1) consult with the city of Victorville, Cali-
- 2 fornia, and surface owners in that area; and
- 3 (2) prohibit mining in that area.

○



The Soledad Canyon Mine Act

H.R. 5887

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